

REMARKS/ARGUMENTS

In response to the Final Office Action mailed April 24, 2006, Applicants propose to amend their application and request reconsideration in view of the proposed amendments and the following remarks. In this amendment, Claim 1 is proposed to be amended, no claims have been added, and Claims 2 and 3 have been cancelled without prejudice so that Claims 1 and 4-9 are currently pending. No new matter has been introduced.

Claims 1-9 were provisionally rejected on the ground of non-statutory obviousness-type double patenting over Claims 1-9 of copending Application Serial Number 10/688,171 in view of U.S. Patent No. 5,902,332 to Schatz. Application Serial Number 10/688,171 has been amended to incorporate a new set of claims, a copy of which is attached hereto. As is seen in this amendment, the one or more bridging elements comprise the means required to create an interlocking mechanism as opposed to the present invention wherein the loops and struts are configured to make an interlocking mechanism. This use of the struts and loops is not taught or suggested. Accordingly, withdrawal of the rejection is respectfully requested.

Claim 1 was objected to for a minor informality; accordingly, Applicants have amended the claim to correct the informality.

Claims 1-4 and 7 were rejected as anticipated by U.S. Patent No. 6,251,134 to Alt et al. (Alt). Claims 1-4 and 7 were rejected as being unpatentable over U.S. Patent Application No. 2003/0135266 to Chew et al. (Chew) in view of Schatz. These rejections are respectfully traversed.

With respect to the anticipation rejection, anticipation exists only if all of the elements of the claimed invention are present in a system or method disclosed, expressly or inherently, in a single prior art reference. Therefore, if it can be shown that there is one difference between the claimed invention and what is disclosed in the single reference, there can be no anticipation.

Alt discloses a stent with high longitudinal flexibility. The stent comprises a plurality of common ring elements aligned along a longitudinal axis and coupling elements on each of the ring elements to mate with a pivot longitudinally relative to the coupling elements on neighboring ring elements without fixed physical attachments between the coupling elements.

As stated above, if one difference may be formed, there can be no anticipation. It is respectfully submitted that there are multiple differences. One difference is in the fact that the present invention comprises an elongate member that is longer than the longitudinal struts. Another difference is in the fact that the present invention comprises bridging elements that do not line up with bridging elements on an adjacent segment. In Alt, the bridging elements line up with one another on adjacent rings. Since there are at least two differences between the claimed subject matter and Alt, there can be no anticipation. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

With respect to the obviousness rejection, the MPEP, in section 706.02(j), sets forth the basic criteria that must be met in order to establish a *prima facie* case of obviousness:

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion

or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d, 488, 20 USPQ2d 1438 (Fed.Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria."

Section 2143.03 of the MPEP clarifies certain criteria in section 706.02(j).

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1074). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)."

Chew discloses a medical device with multiple, independent, self-coating stent segments, wherein each stent segment includes a plurality of stents, loops and bridging elements. Schatz discloses a plurality of expandable and deformable.

Neither of the references, whether taken alone or in combination, discloses or suggests the elements of amended claim 1 of the present invention. For example, neither reference discloses a non-fixed or free end bridge that fits into a receptacle formed by the spacing of adjustment struts and enlarged loops. In addition, neither reference describes a bridge element having an elongate member longer than the struts. Accordingly, since the references fail to disclose or suggest all of the claimed elements, there can be no *prima facie* case of obviousness.

In addition, assuming arguments that the references do disclose or suggest the claimed subject matter, there is simply no motivation to combine the references without using the present invention as a template.

Accordingly, for the reasons given above, it is respectfully requested that the rejection be reconsidered and withdrawn.

A favorable action on the merits is earnestly solicited.

Respectfully submitted,

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Dated: June 22, 2006